REMARKS

This amendment is in response to the Office Action mailed November 22, 2004. The responses are in the order in which the issues are raised in the Office Action.

Rejection of Claims 4, 10 and 17

Claims 4, 10 and 17 are rejected under 35 USC 102(b) as being anticipated by Hughes et al. (U.S. Patent 5,835,494).

In response, applicants respectfully disagree with the Examiner and argue Hughes does not teach "at least one time-independent calendar, providing non-guaranteed bandwidth service . . . and/or queue pointers directly pointing to queues containing information units to be transmitted . . ." This element of the claim as amended clearly distinguishes over the Hughes reference. In Hughes both the high granularity calendar 112 and the low granularity calendar 114 are time-based. They are time-based in that a set number of bits of bandwidth is provided every unit of time. See for example Hughes, column 3, lines 25-33, and column 12, lines 22-35. Both of these teachings clearly show that the two calendars in Hughes provide a set number of bits within a set time period. This is construed to mean the calendars are time-based. In contrast, the time-independent calendar set forth in applicants' claim provide non-guaranteed bandwidth that is a best effort service with no guarantee bandwidth (where x bits of bandwidth is provided every unit of time), but competes with the other users for the bandwidth remaining after the guaranteed bandwidth customers are satisfied. See applicants' specification, page 15, lines 7-18.

It is settled law that a reference anticipates a claim (35 USC 102(b)) if every element, function and feature of the claim is found in a single reference. As argued above Hughes does not teach a time-independent calendar as is set forth in the claim. Therefore, the claims are not anticipated by Hughes, et al.

It is noted that the Examiner equates the high granularity calendar and the low granularity calendar of Hughes as equivalent to the time-based and non-time-based calendar set forth in applicants' claim. However, as argued above both the high granularity and low granularity calendars in Hughes are of a single type, i.e. time-based. Therefore, the claims are not anticipated by the Hughes reference.

Another feature that distinguishes the claims from the Hughes reference is that the queue pointer directly points to queue containing information unit to be transferred. In contrast, pointers in the calendar of Hughes point to a next generation table 116 and not directly to queues as is recited in the claim. For example, see Figure 2 where 218, 220, 232 and 230 points to location in the next connection table 116. This difference further distinguishes the claims from the cited reference. As argued above and incorporated herein by reference, every element and feature of the claimed invention must be shown in a single reference in order for claims to be rejected under 35 USC 102. As pointed out above this one-to-one situation has not occurred. Therefore, the claims were not anticipated by the Hughes et al. reference.

Rejection of Claims 11, 13, 14, 15 and 19

Regarding this group of claims the Examiner does not specifically state that they are rejected under 35 USC 102. However, these claims are discussed under 35 USC 102(b) part of the Office Action. Therefore, applicants assume that these claims are rejected under 35 USC 102(b).

In response to this rejection, applicants respectfully disagree with the Examiner and argue that these claims are not anticipated by Hughes et al. reference. Claim 11 is amended to make it clear that the information pointer is pointing directly to information sources. In addition, the information pointer is detached from one location after a servicing to another location.

Hughes et al. does not teach any of these features. As argued above and incorporated herein by reference, in the Hughes reference (see Fig. 2) pointers in the calendar does not directly point to information source as is required by the claim but instead points to next connection table 116. In addition, the information pointer being detached from one location and attached (placed) at another location is not taught or suggested within Hughes et al. As argued above and incorporated herein by reference Hughes does not even disclose calendar pointers pointing to information sources or queues, much less to move one of those pointers from one location to another location. It is clear from this claim as amended that it distingulshes over Hughes et al. reference. The other claims in this group are dependent and by reason of the dependency inherit all the limitations of the main claim. Therefore, the dependent claims are not anticipated by Hughes et al.

Rejection of Claims 2-3

Claims 2-3 are rejected under 35 USC 103(a) as being unpatentable over Hughes in view of Ohba (U.S. Patent 6,101,193).

In response, applicants respectfully disagree with the Examiner and argue that for reasons set forth below the combined references of Hughes and Ohba does not render claims 2 and 3 obvious.

First, applicants argue the Examiner has misconstrued Hughes et al. In particular, Hughes does not disclose a time-based calendar providing predefined number of bits of bandwidth per unit time (guaranteed) and another one of the calendars being time-independent providing non-guaranteed bandwidth services.[1] The arguments set forth above regarding this distinction is applicable and is incorporated herein by reference. Even though the claims as originally written does in fact claim a time-based and time-independent calendar, to make this point clearer applicants have amended the claims as shown above. By this amendment claims 2 and 3 provide a new structure resulting in benefits (speed in distributing information) to the user. Applicants contend that the novel structure together with benefits are indicia of unobviousness.

In addition, applicants argue that even after the Examiner's combination the resulting reference would not disclose all the limitations of applicants' claim. As a consequence, the Examiner has not made out a prima facie case of obviousness. One of the elements of a prima facie case of obviousness is that the combination must teach all the elements and limitations of applicants' claim. As argued above, the Examiner's combined reference does not disclose the weighted fair calendar providing non-guaranteed data (time-independent calendar) and a time-based calendar providing guaranteed bandwidth service. Since this feature of the claim is not disclosed in the reference the claims are not rendered obvious by the references.

Rejection of Claims 12 and 16

[1]This feature is stated in the claim, to wit, "not providing predefined number of bits per unit time".

Claims 12 and 16 are rejected under 35 USC 103(a) as being unpatentable over Hughes in view of Ohba (U.S. Patent 6,101,193).

In response, applicants point out that claims 12 and 16 are dependent on claim 11. Claim 11 in part distinguishes over Hughes et al. in that the claim calls for a time-independent calendar providing non-guaranteed bandwidth. As argued above and incorporated herein by reference there is no such teaching in Hughes et al. The Hughes et al. teaching relates to two time-based calendars as argued above and incorporated herein by reference. Due to this difference the apparatus in claim 11 is novel providing a more efficient way of scheduling packets. The novel structure and benefits are evidence of unobviousness.

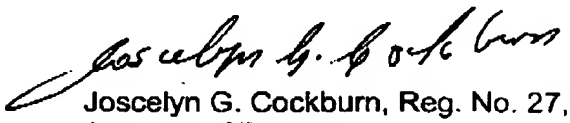
In addition, as argued above relative to claims 2 and 3 and incorporated herein by reference the Examiner has not made out a prima facie case of obviousness because all the elements and limitations of applicants' claim is not found in the combined references. Therefore, claims 12 and 16 are not obvious in view of the teachings of the references.

Allowed Subject Matter

Claim 18 is objected to as being dependent upon rejected base claim but would be allowed if rewritten in independent form. In response, the claim is written in independent form and is now in a condition for allowance.

It is believed that this amendment answers all the issues raised by the Examiner. Reconsideration is request and an early allowance of all the claims is solicited.

Respectfully Submitted,



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